

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**CODY GOLDTOOTH,**

**Plaintiff,**

**vs.**

**THE WESTERN SUGAR COOPERATIVE,**

**Defendant and Third-Party  
Plaintiff,**

**vs.**

**DSI MECHANICAL, LLC AND ZURICH  
AMERICAN INSURANCE COMPANY,**

**Third-Party Defendants.**

**8:20CV113**

**SECOND AMENDED  
TRIAL SETTING ORDER**

A telephonic hearing was held with counsel for the parties on October 20, 2023, on the Defendant's Unopposed Motion to Amend Trial Setting Order ([Filing No. 110](#)). After review of the motion and in accordance with the discussion during the telephonic hearing, the Court finds good cause for the extensions. Accordingly,

**IT IS ORDERED** that the Defendant's Unopposed Motion to Amend Trial Setting Order ([Filing No. 110](#)) is granted, and the amended trial setting order is amended as follows:

- 1) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **November 15, 2023**. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is **twenty-five (25)**.
- 2) The deadlines for identifying expert witnesses and completing expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For defendant/third-party plaintiff:	<b>December 4, 2023</b>
Plaintiff's rebuttal:	<b>December 21, 2023</b>
Third-Party defendants:	<b>January 17, 2024</b>

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<sup>1</sup> While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 3) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **January 31, 2024**.
- 4) The parties do not anticipate filing dispositive motions. Nonetheless, the deadline for filing motions to dismiss and motions for summary judgment is **January 31, 2024**.
- 5) The **Final Pretrial Conference** is rescheduled before the undersigned magistrate judge on **February 5, 2024**, at **10:00 a.m.**, and will be conducted in chambers. Third-party defendants may appear via video conference. The instructions to appear by video conference will be entered by separate order. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to [nelson@ned.uscourts.gov](mailto:nelson@ned.uscourts.gov) in Word format, by **3:00 p.m. on January 29, 2024**.
- 6) The jury trial of this case is rescheduled and set to commence before Robert F. Rossiter, Jr., Chief United States District Judge, in Courtroom 4, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at **9:00 a.m. on March 11, 2024**, or as soon thereafter as the case may be called, for a duration of **five (5)** trial days. This case is subject to the prior trial of criminal cases and such other civil cases as may be scheduled for trial before this one. Jury selection will be held at the commencement of trial.
- 7) Motions in limine and motions seeking pretrial evidentiary hearings regarding the admissibility of evidence shall be filed no later than **twenty-eight (28)** days before trial.
- 8) The parties are ordered to comply with **Judge Rossiter's** Civil Jury Trial Practices posted at <https://www.ned.uscourts.gov/attorney/judges-information>.

Dated this 20<sup>th</sup> day of October, 2023.

BY THE COURT:

s/Michael D. Nelson  
United States Magistrate Judge